HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 565 of 2005

(17)

Appellant		The Oriental Insurance Com. Ltd. Through Divisional Manager, Maldiv Nagar, Durg (C.G.).
	Versus	
Respondents	1.	Gurubachan Singh S/o Tara Singh, aged 51 years, New Santi Nagar, Thana Mohan Nagar, District- Durg (C.G.) (Applicant).
	2.	Punuram, S/o Sitaram, aged 56 years, R/o Sikola Bhata, Near House of Ward Member, Tahsil and District- Durg (C.G.).
	3.	Hajari Lal Yadav, S/o Puran Lal Yadav, R/o Sikola Bhata, Damdha Road, Durg, Thana Mohan Nagar, District- Durg (C.G.)

DB: Hon'ble Shri Justice S. R. Nayak, C.J.
& Hon'ble Shri Justice Satish K. Agnihotri, J.

Mr. Avinash Mishra, Advocate for the appellant.

ORAL ORDER

(5th December 2005)

The following order of the Court was passed by S. R. Nayak, C.J.

This is an appeal preferred by the Insurance Company. The award is assailed on the ground that the driver of the motor vehicle involved in the accident on the date of incident did not have valid and effective driving licence. In the first place, it needs to be noticed that the Tribunal having considered oral and documentary evidence has recorded a finding that the driver of the motor vehicle involved in the accident was having the valid and effective driving licence. Be that as it may, if the Insurance Company wanted to be exonerated from the liability to pay compensation on the ground that the driver of the motor vehicle involved in the accident did not have valid and effective driving licence, it should have pleaded and proved by substantive legal evidence that fact. The Insurance Company has not adduced any evidence to prove that as on the date of accident the driver of the motor vehicle involved in the

accident did not have valid and effective driving licence. Therefore, the defence now raise for the Insurance Company to exempt it from liability of paying compensation is misconceived and cannot be countenensed. The appeal is therefore dismissed. No costs.

(18)

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Thakur